IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8457 OF 2004

Ramrao Dnyanu Patil & Anr. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents.

Mr.Amit Sule for A.B.Borkar for petitioners

Mr.C.R.Sonawane, A.G.P. for State.

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 5TH NOVEMBER 2004.

P.C.

1. Heard Advocates.

2. The notification under section 4 of the Land Acquisition Act came to be published on 22nd September 1983 in Maharashtra Government Gazette whereby the suit lands described in para 1(a) of

petition were notified for acquisition for the purpose of re-settlement of persons displaced due to Warna project. Petitioners filed objections against proposed acquisition under section 5A of the Act. Notification under section 6 was published in the gazette on 28th August 1986.

3. Petitioner challenged acquisition proceedings by way of writ petition No.5323 of 1988. The writ petition was disposed of by the Division Bench on 11/11/1995 directing that if the award was not passed within the stipulated period of two years as contemplated under section 11A of the Act, then the notification under section 6 of the Act shall stand quashed. It appears that thereafter petitioner approached respondents with a proposal of offering to surrender alternate land without prejudice to their rights. 7/12 extracts relating to alternate lands were also furnished as required by the SLAO. However, the request fail to evoke any response.

4. Petitioners filed Regular Civil Suit No.197 of 1996 in the court of Joint Civil Judge,

Kolhapur seeking a declaration that the acquisition proceedings lapsed in view of section 11A and in the alternative mandatory injunction was sought to accept alternate lands described in para 1(b) of the petition. The suit was dismissed on the ground that the civil court had no jurisdiction to entertain the suit. Appeal preferred by the petitioner was dismissed by the District Court as also the second appeal by this Court.

5. In the present petition, petitioners are firstly seeking a relief that acquisition proceedings should be declared as lapsed in view of section 11-A of the Act and in the alternative petitioners are seeking a direction to the respondents to accept their offer of alternate lands described in para 1(b) of the petition. As far as first prayer is concerned, it is seen that section 6 notification was published in the Government gazette on 20th August 1986 and the award was passed on 29th March 1988 i.e. within two years and, therefore, section 11 A is not attracted to the present case.

6. As far as petitioners' prayer for accepting alternate land is concerned, petitioner will make appropriate application to the District Rehabilitation Officer with necessary particulars of the alternative lands within four weeks from today. The District Rehabilitation Officer shall consider feasibility of accepting alternate lands and pass appropriate orders in accordance with law within a period of two months from receipt of the application. If the petitioners fail to make the application within the stipulated period the SLAO will be free to take possession of the lands. However, Possession of the lands shall not be taken till the request of petitioners for offering alternate lands is considered.

7. Petition is deposed accordingly.

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